

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALPHA CAPITAL ANSTALT and
ELLIS INTERNATIONAL, LTD.,

Plaintiffs,

-vs-

DOV SCHWELL and WILLIAM
SCHMITZ,

Defendants.

**ATTORNEY
DECLARATION**

Civil Action No.: 17-CV-1235

Oral Argument Requested

MARY E. SHEPARD hereby declares pursuant to Title 28, United States Code § 1746 (2), under penalty of perjury, that the following is true and correct:

1. I am an attorney admitted to practice before the Courts of this State and the Southern District of New York and engaged in the practice of law with The Wolford Law Firm LLP, counsel for defendant William Schmitz (“Schmitz”), in connection with the above-referenced action.

2. I submit this declaration in support of Schmitz’s motion to dismiss the Second Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

3. Attached hereto as **Exhibit 1** is a copy of the Second Amended Complaint in this action, filed as Docket No. 129.

4. Attached hereto as **Exhibit 2** is a copy of the electronic docket in *In re Arista Power, Inc.*, currently pending in the United States Bankruptcy Court for the Western District of New York.

5. Attached hereto as **Exhibit 3** is a copy of the Official Form 201 - Voluntary Petition for Non-Individuals Filing for Bankruptcy, filed by Arista Power, Inc. (“Arista”).

6. Attached hereto as **Exhibit 4** is a copy of Arista's Form 10-K for the fiscal year ending on December 31, 2011.

7. Attached hereto as **Exhibit 5** is a copy of Arista's Form 10-K for the fiscal year ending on December 31, 2012.

8. Attached hereto as **Exhibit 6** is a copy of Arista's Form 10-Q for the fiscal quarter ending on September 30, 2013.

9. Attached hereto as **Exhibit 7** is a copy of Arista's Form 10-K for the fiscal year ending on December 31, 2013.

10. Attached hereto as **Exhibit 8** is a copy of Arista's Form 10-Q for the fiscal quarter ending on September 30, 2014.

11. Attached hereto as **Exhibit 9** is a copy of Arista's Form 8-K filed on March 27, 2015.

12. Attached hereto as **Exhibit 10** is a copy of Arista's Form S-1 filed on October 3, 2013.

13. Attached hereto as **Exhibit 11** is an Adobe Acrobat Pro comparison of the Amended Complaint to the Second Amended Complaint.

Dated: May 30, 2018

s/ Mary E. Shepard
Mary E. Shepard, Esq.